

Notice of Allowability

Application No.

10/718,425

Examiner

Jeffrey Sharp

Applicant(s)

RYALS ET AL.

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/1/2006.
2. ☒ The allowed claim(s) is/are 33-40.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

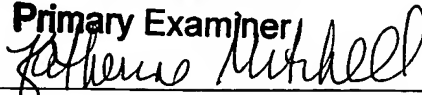
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Katherine Mitchell
Primary Examiner



DETAILED ACTION

[1] This action is responsive to Applicant's remarks/amendment filed on 01 June 2006 with regard to the Official Office action mailed on 04 April 2006.

Status of Claims

[2] Claims 1-32 are cancelled. Claims 33-40 are allowed.

Drawings

[3] The drawing sheet submitted on 17 January 2006 was previously objected for inserting new matter. In view of Applicant's replacement drawing sheet submitted on 01 June 2006, all previous objections to the drawings have been withdrawn. Accordingly, the changes have been entered.

Response to Arguments/Remarks and Reasons for Allowance

[4] The following is an examiner's statement of reasons for allowance:

[5] Claims 9-14 were previously rejected under 35 U.S.C. 102(b) as being anticipated by Larsen US-5,314,160.

Applicant's arguments/remarks with regard to this reference have been fully considered, and are persuasive in view of the after final amendment filed on 01 June 2006. Accordingly this rejection has been withdrawn. In short, Larsen fails to disclose the staple and identifying indicia claimed in the instant independent claim 33.

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[6] Claims 17 and 23-25 were previously rejected under 35 U.S.C. 103(a) as being obvious over Larsen US-5,314,160 in view of Ruehl US-4,582,288.

Applicant's arguments/remarks with regard to this reference have been fully considered, and are persuasive in view of the after final amendment filed on 01 June 2006. Accordingly this rejection has been withdrawn. Although Ruehl suggests that Larsen's fasteners may obviously be replaced with a staple, Ruehl does not expressly disclose or suggest indicia on a body which corresponds to a predetermined distance between the legs of a standard sized staple inserted into the body.

[7] Claims 15 and 16 were previously rejected under 35 U.S.C. 103(a) as being obvious over Larsen US-5,314,160 in view of Albertson et al. US-6,095,739.

Applicant's arguments/remarks with regard to this reference have been fully considered, and are persuasive in view of the after final amendment filed on 01 June 2006. Accordingly this rejection has been withdrawn. Although the Albertson et al. reference suggests that Larsen's fastener may comprise size-related indicia in general, the indicia taught by Albertson et al. would not reasonably suggest to those of ordinary skill in the art, placing such indicia on an interconnecting portion of an apparatus (not part of the staple itself). Moreover, the examiner feels that a rejection under 35 U.S.C. 103(a) could not be formulated for independent claim 33 without using impermissible hindsight reasoning.

[8] Claims 26-32 were previously rejected under 35 U.S.C. 103(a) as being obvious over Larsen US-5,314,160 in view of Ruehl US-4,582,288 and Kobylinski et al. US-2004/0126201.

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Applicant's arguments/remarks with regard to this reference have been fully considered, and are persuasive in view of the after final amendment filed on 01 June 2006. Accordingly this rejection has been withdrawn. Although the Kobylinski et al. reference discloses indicia on an apparatus to match a cable color, Kobylinski et al. do not expressly disclose or suggest indicia on the apparatus to match corresponding apertures through the apparatus with staple legs. The present invention differs from Kobylinski et al., in that the indicia serves to "comprise information relating to a predetermined standard distance, so as to indicate the correct aperture placement of said staple within the apparatus in relation to its size". Since Kobylinski et al. does not suggest multiple apertures in at least one foot portion, Kobylinski et al. does not fill in the gaps where Larsen and Ruehl are silent. Moreover, the examiner feels that a rejection under 35 U.S.C. 103(a) could not be formulated for independent claim 33 without using impermissible hindsight reasoning.

[9] Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Allowable Subject Matter

[10] In view of Applicant's amendment/remarks filed on 01 June 2006, claims 33-40 are allowable for at least the reasons disclosed above.

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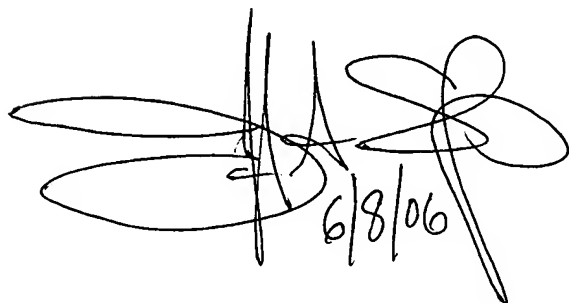
Conclusion

[11] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Sharp whose telephone number is (571) 272-7074. The examiner can normally be reached 7:00 am - 5:30 pm Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

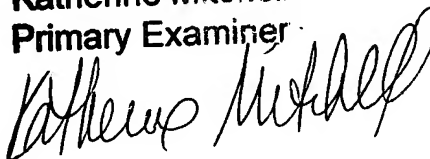
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAS



Handwritten signature of JAS with the date 6/8/06 written below it.

Katherine Mitchell
Primary Examiner



Handwritten signature of Katherine Mitchell.

--REPLACEMENT SHEET--
Docket Number: BE1-0031US
Inventors: Ryals et al.
Title: Wire Protector and Retainer

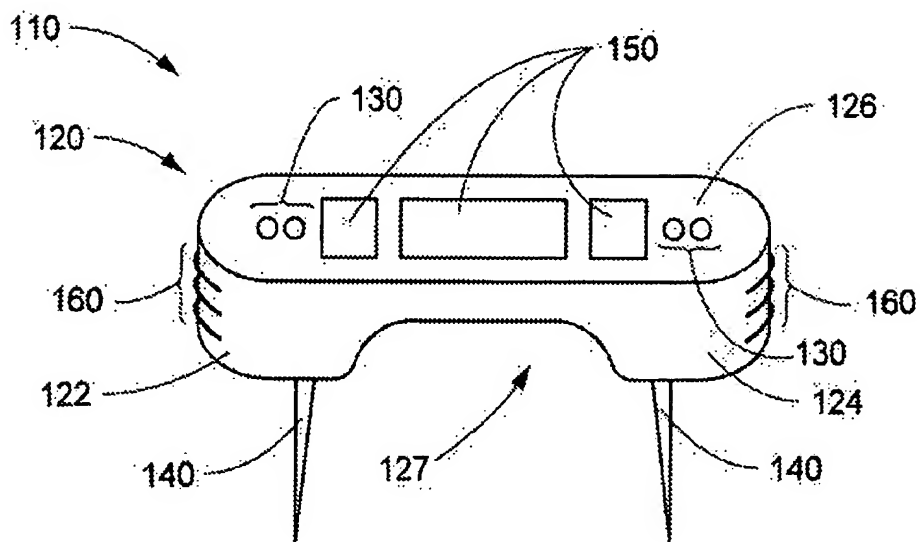


FIG. 3

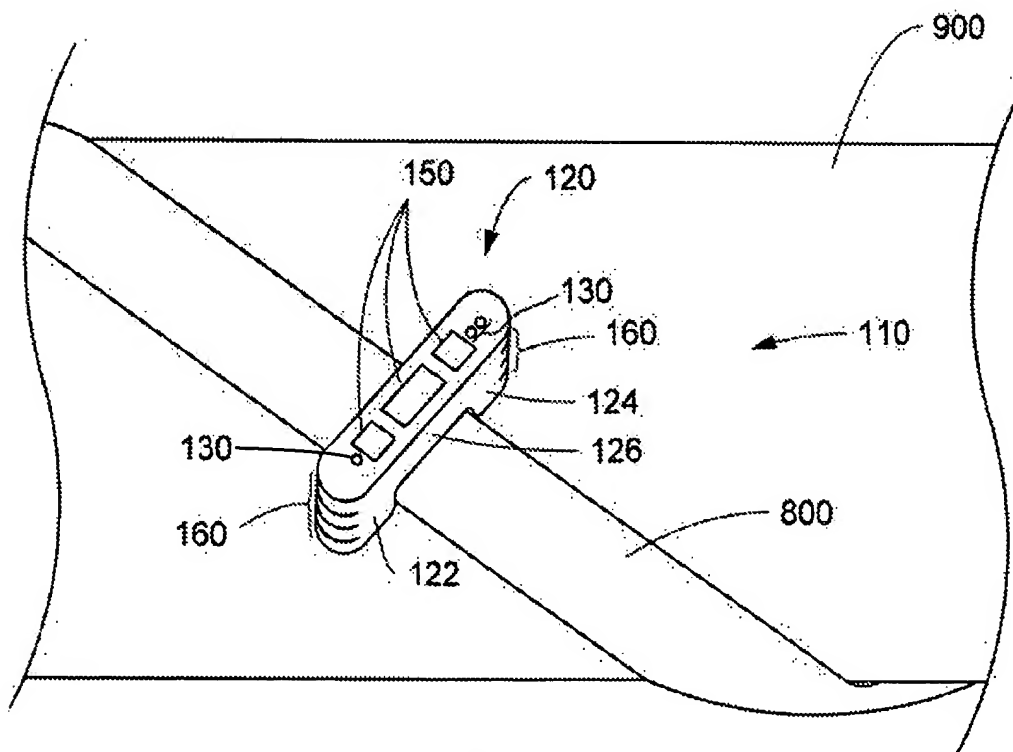


FIG. 4

(AF) DRAWING 6/1/06
-- ENTERED BY EXAMINER --
6/8/06